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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

[A-351-840]

Certain Orange Juice from Brazil; Notice of Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: [Insert date of publication in the Federal Register].

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SUPPLEMENTARY INFORMATION:

Amended Final Results

On August 11, 2008, the Department of Commerce (the Department) published the final results of its administrative review of the antidumping duty order on certain orange juice (OJ) from Brazil.<sup>1</sup> The period of review (POR) is August 24, 2005, through February 28, 2007.

Following the publication of the final results, Fischer S.A. Comercio, Industria, and Agricultura (Fischer) filed a lawsuit with the United States Court of International Trade (CIT) challenging the Department's final results of administrative review. On April 6, 2010, the CIT remanded the case to reconsider the calculation of Fischer's constructed export price of not-

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<sup>1</sup> See Certain Orange Juice from Brazil: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 73 FR 46584 (Aug. 11, 2008).

from-concentrate orange juice (NFC) in light of certain evidence that the agency had previously rejected as untimely.<sup>2</sup> The CIT affirmed the final results in all other respects. Id. On May 24, 2010, the Department filed the remand results with the Court, in which it considered the new evidence and concluded that the new evidence did not warrant a change to the original calculation. On November 23, 2010, the CIT affirmed the remand results.<sup>3</sup>

Fischer appealed certain aspects of the CIT's April 6, 2010, decision before the Court of Appeals for the Federal Circuit (CAFC). On March 23, 2012, the CAFC affirmed in part and remanded in part.<sup>4</sup> The CAFC ordered the CIT to remand the case back to the Department to: 1) accept certain additional new factual information, which was contained in Fischer's case brief and, if necessary, recalculate Fischer's antidumping duty margin; and 2) provide its reasoning for the continued use of "zeroing" in some proceedings but not others. Id.

On September 10, 2012, the parties submitted a joint status report to the CIT, in which they requested to delay the issuance of the remand order so that the parties could explore the possibility of settlement. On February 7, 2013, the United States, Fischer, and the petitioners entered into an agreement to settle this dispute and requested a stipulated judgment. On February 12, 2013, the CIT issued an order of stipulated judgment. Pursuant to the terms of the February 2013 agreement and the stipulated judgment, we are setting Fischer's weighted-average margin at 1.63 percent, based solely on the reconsideration of the new factual information

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<sup>2</sup> See Fischer S.A. Comercio, Industria, and Agricultura v. United States, 700 F. Supp. 1364, 1381 (Ct. Int'l Trade 2010).

<sup>3</sup> See Fischer S.A. Comercio, Industria, and Agricultura v. United States, 746 F. Supp. 1353, 1357 (Ct. Int'l Trade 2010).

<sup>4</sup> See Fischer S.A. Comercio, Industria, and Agricultura v. United States, 2012 U.S. App. LEXIS 6055 (CAFC March 23, 2012) (non-precedential opinion).

contained in Fischer's case brief and without making any change with respect to zeroing. Consistent with the February 2013 agreement and the stipulated judgment, we will instruct U.S. Customs and Border Protection to liquidate Fischer's unliquidated entries during the POR in accordance with these amended final results. However, we will not use the margin of 1.63 percent to establish a revised cash deposit rate for Fischer because the antidumping duty order on OJ from Brazil was revoked on April 20, 2012, with an effective date of March 9, 2011.<sup>5</sup>

We are issuing this determination and publishing these amended final results and notice in accordance with 19 U.S.C. 1516a(e).

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Paul Piquado  
Assistant Secretary  
for Import Administration

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February 25, 2013  
(Date)

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<sup>5</sup> See Revocation of Antidumping Duty Order: Certain Orange Juice From Brazil, 77 FR 23659 (April 20, 2012).